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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,635	05/04/2001	Sami Shemtov	551-P-002	1568

7277 7590 02/26/2007  
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350 FIFTH AVENUE SUITE 4710  
NEW YORK, NY 10118

EXAMINER
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DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



<b>Office Action Summary</b>	<b>Application No.</b> 09/849,635	<b>Applicant(s)</b> SHEMTOV, SAMI	
	<b>Examiner</b> Aaron M. Dunwoody	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-16, 18-35 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16, 18-35 and 37-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |



## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/8/2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33 appears to define the claimed invention of a coupling member and a connecting member in terms of the non-claimed invention of a conduit.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



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Claims 2-16, 18-35 and 37-40 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2846169, Sullivan.

In regards to claims 38 and 39, Sullivan discloses a combination of a coupling member and a connecting member, wherein

said coupling member (30) adapted to receive and support a conduit, the coupling member comprising a tubular member having at least one end, the end adapted to receive one end of the conduit, and the tubular member having a wall containing an aperture (31', 32' and internal nut); and

said connecting member (60) having opposite ends, one end of the connecting member securely engaging the aperture in the wall of the tubular member, the opposite end of the connecting member extending outwardly beyond the wall and adapted to securely engage a remote supporting structure, to securely hold and support the coupling member and the conduit in a selected position.

Note, the remote supporting structure and the conduit are not considered part of the claimed invention.

In regards to claims 2 and 18, Sullivan discloses the wall being raised relative to the exterior surface of the tubular member.

In regards to claims 3, 4, 19 and 20, Sullivan discloses the aperture being threaded internally and the end of the connecting member is externally matingly threaded for engaging into the internally threaded aperture.

In regards to claims 5-8 and 21-24, Sullivan discloses a lock nut along the stem.



In regards to claims 9-16 and 25-32, Sullivan discloses a stop member (40) projecting internally at about the middle of the tubular member.

In regards to claim 33, Sullivan discloses the end of the connecting member being positioned within the confine of the tubular member in contact with the one conduit (indirectly).

In regards to claim 34, Sullivan discloses each of the ends of the tubular member being externally threaded.

In regards to claim 35, Sullivan discloses each of the ends of the tubular member further having an opening through the tubular member, the opening is internally threaded to receive a set screw for securely positioning the conduit.

In regards to claim 37, Sullivan discloses the aperture being generally perpendicular to the longitudinal axis of the tubular member.

In regards to claim 40, Sullivan discloses the tubular member further having a wall surrounding an interior space, wherein the aperture is adapted to receive the end of the connecting member within the interior space.

### ***Response to Arguments***

Applicant's arguments filed 1/8/2007 have been fully considered but they are not persuasive. Applicant argues that The Sullivan reference fails to disclose, at least, the above elements shown in bold and italics features of the amended claim; and the purpose and construction of the device of the Sullivan reference is patentably different from the present invention. The Examiner disagrees. The Sullivan reference clearly illustrates the above elements shown in bold and italics of the amended claim.



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Further, it has been held that the mere fact that the reference relied on by the Patent and Trademark Office fail to evince an appreciation of the problem identified and solved by applicant is not, standing alone, conclusive evidence of the nonobviousness of the claimed subject matter. The references may suggest doing what an applicant has done even though workers in the art were ignorant of the existence of the problem. In re Gershon, 152, USPQ 602 (CCPA 1967).

response to applicant's argument that Sullivan can hold a conduit, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Further, the conduit is not considered part of the claimed invention.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Aaron M Dunwoody  
Primary Examiner  
Art Unit 3679

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